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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,050

04/08/2004

James Teague

9423.0014-01

7330

22852

7590

06/12/2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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WASHINGTON, DC 20001-4413

EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

06/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/820,050

Applicant(s)

TEAGUE ET AL.

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 55-74 is/are allowed.
- 6) ☒ Claim(s) 75-77, 83, 84, 86 and 87 is/are rejected.
- 7) ☐ Claim(s) 78-82 and 85 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 22 March 2007 have been fully considered but they are not persuasive. The applicant argues that the Dretler et al. fails to teach a coating having a color different from that of the sleeve. Dretler et al. teaches a colored coating for use in determining whether the coil is within or without the sheath. The purpose of coloring is to make the coil more visible to the user. If the coil was the same color as the sheath it would teach away from being more visible to the user.
2. Applicant's arguments, see page 10, filed 22 March 2007, with respect to claims 55 and 74 have been fully considered and are persuasive. The 35 U.S.C. 102(e) rejections of claims 55 and 74 have been withdrawn.

Terminal Disclaimer

3. The terminal disclaimer filed on 22 March 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6740096 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 75-77, 83, 84, 86, and 87 are rejected under 35 U.S.C. 102(e) as being anticipated by Dretler et al. US 2001/0031974 A1.

5. Dretler et al. teaches an elongate sleeve defining a lumen extending longitudinally within at least a portion of the elongate sleeve; an elongate core slidably disposable within the lumen, the core having a distal portion capable of transforming between an unrestrained configuration forming a plurality of coils disposed in a conical shape and a restrained configuration forming a substantially linear shape; and wherein the distal portion of the elongate core includes a coating having a color different from that of the sleeve; wherein the elongate core includes a proximal portion having a substantially linear shape in an unrestrained configuration; wherein the proximal portion of the elongate core includes a coating having a color different from that of the coating covering the distal portion of the elongate core [0032]; wherein the elongate core includes a proximal portion having a shape comprised of at least one loop in an unrestrained configuration; wherein the proximal portion of the elongate core includes a coating having a color different from that of the coating covering the distal portion of the elongate core [0032]; wherein the coating comprises one of PTFE, EPTFE, ETFE, or a combination thereof [0032].

6. Dretler et al. teaches a medical device comprising: an elongate sleeve defining a lumen extending longitudinally within at least a portion of the elongate sleeve; an elongate core formed at least in part of nickel-titanium alloy [0029] and slidably disposable within the lumen, the core having a distal portion capable of transforming between an unrestrained configuration forming between 5 and 15 coils disposed in a

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conical shape and a restrained configuration forming a substantially linear shape;
wherein adjacent turns of the coil are separated by a space less than 2 mm [0022], and
wherein the distal portion of the core includes a coating having a color different from
that of a portion of the sleeve [0032].

FIGURE 5A

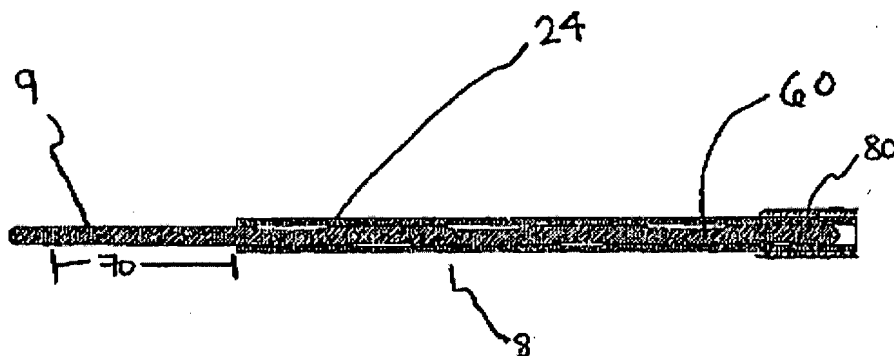
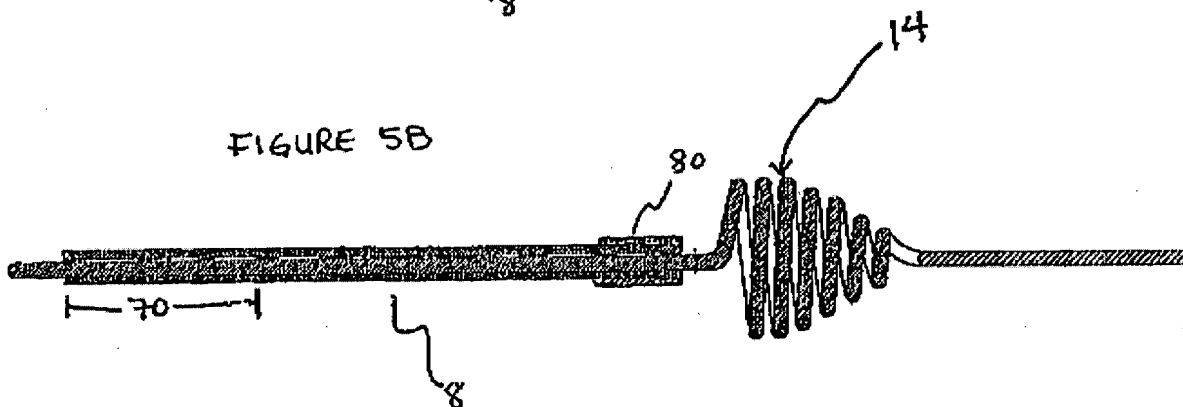


FIGURE 5B



Allowable Subject Matter

7. Claims 78-82 and 85 and objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 55-74 are allowable over the prior art of record.

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9. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or render obvious the overall claimed invention of a medical device comprising at least one loop located at a distance from a proximal end of a helical coil that is substantially greater than a distance between wound sections of the helical coil, or wherein a wound section of the at least one loop is disposed substantially perpendicular to a wound section of the helical coil.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MM



MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER